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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 LEROY K. BERRA,

8 Plaintiff,

9 v.

10 SPOKANE COUNTY SHERIFF'S
11 DEPARTMENT and JOHN C.
McGRATH,

12 Defendants.
13

NO: 2:17-CV-0319-TOR

ORDER DISMISSING COMPLAINT

1915(g)

14 By Order filed December 21, 2017, the Court advised Plaintiff of the
15 deficiencies of his complaint and directed him to amend or voluntarily dismiss
16 within sixty (60) days, ECF No. 15. Specifically, Plaintiff had alleged no facts
17 against Defendant McGrath, *see Starr v. Baca*, 652 F.3d 1202, 1207 (9th Cir. 2011)
18 (a supervisor can only be held liable for his or her own culpable action or inaction),
19 and although the Court granted him the opportunity to amend the complaint to name
20 an appropriate Defendant and to present facts to support a claim of municipal

1 liability under *Monell v. Dep't of Soc. Servs. of City of New York*, 436 U.S. 658, 690
2 (1978), Plaintiff did not do so.

3 Plaintiff is a *pro se* prisoner at the Spokane County Jail and is proceeding *in*
4 *forma pauperis*. Defendants were not served. The Court cautioned Plaintiff that the
5 failure to amend to state a claim upon which relief may be granted would result in
6 the dismissal of this action. He did not comply with the Court's directive and has
7 filed nothing further in this action.

8 Therefore, for the reasons set forth above and in the Court's Order to Amend
9 or Voluntarily Dismiss Complaint, ECF No. 15, **IT IS ORDERED** that the
10 Complaint, ECF No. 14, is **DISMISSED** with prejudice for failure to state a § 1983
11 claim against identified Defendants upon which relief may be granted under 28
12 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).

13 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who
14 brings three or more civil actions or appeals which are dismissed as frivolous or for
15 failure to state a claim will be precluded from bringing any other civil action or
16 appeal *in forma pauperis* "unless the prisoner is under imminent danger of serious
17 physical injury." 28 U.S.C. § 1915(g). **Plaintiff is advised to read the statutory**
18 **provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff's complaint may**
19 **count as one of the three dismissals allowed by 28 U.S.C. § 1915(g) and may**
20 **adversely affect his ability to file future claims.**


Accordingly, IT IS HEREBY ORDERED:

1. The complaint, ECF No. 13, is **DISMISSED with prejudice** for failure to state a claim upon which relief may be granted under 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).
2. Plaintiff's *in forma pauperis* status is revoked.
3. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this Order would not be taken in good faith.

IT IS SO ORDERED. The Clerk of Court is directed to enter this Order, enter judgment, provide copies to Plaintiff at his last known address, and **CLOSE** the file. The Clerk of Court is further directed to forward a copy of this Order to the Office of the Attorney General of Washington, Corrections Division.

DATED February 22, 2018.




THOMAS O. RICE
Chief United States District Judge